

**For Discussion
on 10 May 2016**

Legislative Council Panel on Housing

**Non-Profit Making Organisations Operating in Premises
Subject to Welfare Letting Covenant**

PURPOSE

This paper briefs Members on the recent incident regarding non-profit-making organisations operating at premises subject to Welfare Letting Covenant in Kwong Tin Estate and Choi Ha Estate being asked to pay management fee.

BACKGROUND

2. In 2005, the Hong Kong Housing Authority (HA) divested 180 commercial facilities to The Link Properties Limited, now known as Link Properties Limited (Link). The assignment deeds signed between HA and Link for the divested commercial facilities contain certain restrictive covenants, including the Welfare-letting Covenant (the Covenant).

3. The Covenant requires that the owners of the facilities concerned (including Link and any successors in title) should let out certain designated commercial units at certain rent levels to non-profit-making organisations nominated by the Nominating Authorities (i.e. Education Bureau, Social Welfare Department (SWD), Leisure and Cultural Services Department and other relevant Government departments, entities and organisations) for the operation of welfare, educational and community services (the Welfare Premises)

-

- (a) for Welfare Premises other than kindergartens, the rent shall not exceed the Concessionary Rent, which has been defined in the Covenant to mean the rent assessed by HA from time to time to be

the rent applicable to premises for similar use as the Welfare Premises provided in properties owned by or under the control and management of HA. The current level of Concessionary Rent is \$55 per square meter of the internal floor area per month with effect from 1 April 2016; and

- (b) for kindergartens, the rent for the initial term shall not exceed 50% of the market rent as assessed by HA (the Half Market Rent). For renewal of terms, the rent shall be the higher of the Half Market Rent and the then effective Concessionary Rent.

4. In the assessment of Concessionary Rent for those premises used as Welfare Premises, HA has fixed it at a level to cover the cost of management, maintenance and other recurrent expenses in managing the premises. HA has never asked tenants of these premises to pay management fee in addition to the Concessionary Rent. HA considers that tenants who are entitled to the benefit of the Covenant, including the non-profit-making organisations in Kwong Tin Estate and Choi Ha Estate, should not be required to pay any management fee in addition to the rent.

ACTION TAKEN BY HOUSING DEPARTMENT

Issuance of letters to the new owners

5. Following the dispose of the commercial facilities concerned by Link, Housing Department (HD) issued letters to the new owners of the Welfare Premises in Choi Ha Estate and Kwong Tin Estate on 19 March 2015 and 8 March 2016 respectively to set out the requirements of the Covenant and requested their compliance. HD issued a second letter to owners of the Welfare Premises in Kwong Tin Estate and Choi Ha Estates on 11 March 2016 and 18 March 2016 respectively to caution them that HA takes it seriously that all the terms of the Covenant have to be duly observed, and will consider taking appropriate action as it may deem necessary in the event of any non-compliance.

6. The owner of the Welfare Premises in Choi Ha Estate did not further pursue for the payment of management fee. Since the owner of the Welfare Premises in Kwong Tin Estate did not provide a positive response, HA issued a formal solicitor letter. HD received a reply from the said owner on

31 March 2016, stating that HA's solicitor letter was received and a formal response would be made.

ACTION TAKEN BY THE NOMINATING AUTHORITIES

7. HA has been communicating closely with the Nominating Authorities and the Nominating Authorities have also been keeping close liaison with the non-profit-making organisations operating in Kwong Tin Estate and Choi Ha Estate. As one of the Nominating Authorities, SWD issued a letter to the owner of the Welfare Premises in Choi Ha Estate on 9 September 2015 and a letter to the owner of the Welfare Premises in Kwong Tin Estate on 24 March 2016 to confirm its nominations of the non-profit-making organisations to continue to occupy those premises, subject to the Covenant to continue to provide the essential welfare services.

8. We note that the owner of the Welfare Premises in Kwong Tin Estate is negotiating new contract terms with the non-profit-making organisations concerned. The Nominating Authority is also providing comments to the non-profit-making organisations in this regard.

WAY FORWARD

9. HD will continue to maintain close liaison with the Nominating Authorities, and the Nominating Authorities will also keep close liaison with the non-profit-making organisations for offering assistance where necessary. Depending on the response from the owner of the Welfare Premises in Kwong Tin Estate, HD will take appropriate steps as required in a timely manner in order to safeguard the legal interest of HA.